

May 16, 2016

Jeff Schaeffer
VIA E-MAIL

RE: Happy Hour

Dear Mr. Schaeffer:

ISSUE: Your e-mail of April 20, 2016, inquires whether it would be permissible for you to make a change in your happy hour pricing and apply a happy hour discount to the same brand of beer that is already a daily drink special, under the following circumstances:

1. You currently run a daily drink special that sells a mug of a specific brand of draft beer at \$1.00 less than the regular menu price. This “Daily Mug Special” is a different specific brand for each day of the week.
2. The Daily Mug Special does not discount the price of a pint of the exact same specific brand.
3. Your happy hour discount on draft beer is 75 cents off the normal menu price of a mug or pint, with exceptions for “All Day – Everyday” pricing on a few brands.
4. All of the Daily Mug Special brands are eligible for happy hour pricing under your guidelines.
5. You currently do not apply a happy hour discount nor plan to apply the discount to the current day’s Daily Mug Special, as this would be a double discount on the mug size.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that you are the manager of Dommel’s Real Estate Development Corporation, holder of Restaurant Liquor License No. R-10549 (LID 40923) for use by it at premises located at 1077 West Governor Road, Hershey, Pennsylvania.

Given the circumstances above, you inquire whether it would be permissible for you to apply the happy hour discount to the pint size of the Daily Mug Special brand. As an example, you inquire whether, if a Miller Lite mug was the Daily Mug Special,

it would be permissible to apply the happy hour discount to a Miller Lite pint for that day during the happy hour period.

OPINION: The proposed discount is permissible. During happy hour, a retail licensee is permitted to discount **any and all** alcoholic beverages for a period of time not to exceed four consecutive or non-consecutive hours, and not to exceed fourteen hours per week. 47 P.S. §§ 1-102, 4-406(g); 40 Pa. Code § 13.102(a). No discount pricing may occur between 12:00 a.m. (midnight) and the legal closing hour, i.e. 2:00 a.m., for most retail licensees. 40 Pa. Code § 13.102(a).

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-177